

Remarks

Claims 1-3 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,408,598 to Stockley ("Stockley").

Stockley fails to provide all of the limitations of Claims 1-3, and this is demonstrated in the same section of the document cited by examiner as being anticipatory. Stockley preheats the film "prior to extension into the vacuum chamber or by residual heat from dome 42 within the vacuum chamber." (col. 10, lines 40-44) Next, "film 24 is then drawn upwardly into a concavity formed by dome 42 by a vacuum." (col. 10, lines 46-48) Then, "while the film 24 is held, by vacuum, against heated dome 42, the vacuum chamber is closed" and then, "evacuated...by a vacuum drawn through port 58." (col. 10, lines 59-65). No clamping step is disclosed occurring before stretching the film. In fact, no clamping step is set out explicitly in Stockley at all.

Stockley does discuss that the film "must be restrained during any preheating step to prevent shrinking at that step of the process." Stockley also mentions that preheating preferably occur "prior to extension into the vacuum chamber or by residual heat from dome 42 within the vacuum chamber." (col. 10, lines 40-46) However, Stockley is silent regarding clamping or any clamping step before the stretching step as set out in claim 1, or clamping at any stage of the Stockley process. It should be noted that "restraining" may be accomplished by many techniques, but the restraining discussion in Stockley does not implicitly or explicitly address a clamping step along an edge surrounding the tray before stretching.

Furthermore, Fig. 3 specifically sets out that the chamber is closed after the film is held by vacuum against the dome. Again, this runs contrary to the presently claimed method in teaching which is an important feature of the invention.

Because Stockley lacks any clamping step “along an edge surrounding the tray” it cannot anticipate Claims 1-3.

Claims 4-8 were rejected under 35 U.S.C. 103(a) as being obvious in view of Stockley in combination with U.S. Patent No. 6,202,388 to Sanfilippo et al. (“Sanfilippo”).

Claim 4 requires that the control for controlling the drive mechanism operate to produce a clamping step before stretching. As shown above, Stockley fails to address the clamping step of this claim and in fact teaches away from this limitation.

U.S. Patent No. 6,202,388 (Sanfilippo et al.) discloses a device and a method for replacing the atmosphere in a container. However, Sanfilippo does not disclose clamping of an upper film and subsequent stretching of said film. Thus, Sanfilippo does not supply the deficiencies of Stockley. Because the prior art does not show all of the features of the claims (4-8) a *prima facie* case of obviousness has not been demonstrated.

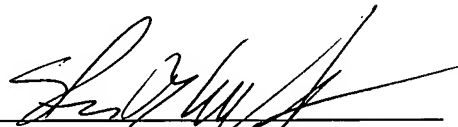
Neither U.S. Patent No. 6,408,598 (Stockley) nor U.S. Patent No. 6,202,388 (Sanfilippo et al.) give any hint or suggestion of the present inventive solution to first clamp an upper film and thereafter stretch this film in a direction away from the product. As shown above, Stockley is silent on clamping and there is no suggestion in Sanfilippo or in Stockley itself to do so. In fact, Stockley tends to teach away from clamping and then stretching the film because Stockley shows, in terms of order of steps, that the film is stretched before any subsequent operational steps occur.

Because Stockley and Sanfilippo do not suggest the inventive step set out in Claim 4, Stockley and Sanfilippo cannot render obvious independent Claim 4, or any claim which depends therefrom. Because the prior does not teach or suggest all of the claim limitations the claims should be allowed. Reconsideration and a notice of allowance is requested.

Respectfully submitted,

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Dated: February 15, 2007

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